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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Policies and Rules
Pertaining to
the Equal Access Obligations
of Cellular Licensees

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PETITION FOR RULEMAKING

MCI Telecommunications Corporation (MCI), by its attorneys and pursuant to Section 1.401 of the Commission's Rules, hereby requests the initiation of a rulemaking proceeding to apply uniform, nationwide policies and rules to the provision of interexchange equal access by cellular licensees. As will be demonstrated herein, it is appropriate and timely for the Commission to require all cellular licensees to interconnect with interexchange carriers (IXCs) via uniform, nationwide, cellular equal access policies and procedures.

Background

Over the past decade, cellular service has grown from two developmental systems (one each in Chicago and Washington/Baltimore) to more than 1,250 systems. There is currently at least one cellular system providing service in each of the FCC-defined Metropolitan Service Areas and Rural Service Areas. Although several hundred companies and individuals were awarded cellular system licenses through comparative hearings, settlements, and lotteries, ownership and control of cellular

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systems in major urban areas and across broad geographic regions have become increasingly concentrated. Bell Operating Companies (BOCs) or their affiliates hold 80 percent of the licenses in the top ten markets, and have ownership interests in at least one system in all but two of the top 50 markets. Combined, the BOCs account for more than 212.5 million potential subscribers or "pops." McCaw has 61.7 million pops and GTE has 54.5 million pops.

The number of actual cellular subscribers has far surpassed the most optimistic projections of the early 1980's. In 1982, AT&T estimated that there would be 1.5 million cellular subscribers by 1990. As of the end of 1990, there were more than three times that many cellular subscribers -- 5.28 million cellular subscribers. During the first half of 1991, 1.1 million new subscribers were added. The cellular industry then grew by an additional 20 percent in the last half of 1991, adding 1.2 million subscribers in just six months. At the beginning of this year, cellular subscribership stood at 7.6 million. The industry continues to grow, and subscribership passed the eight million mark earlier this year.

The increase in subscriber population has been reflected in the growth of cellular industry revenues. Between 1985 and year-end 1991, cellular industry revenues increased more than tenfold, from less than \$500 million to more than \$5.7 billion. The industry's 1991 "roamer" revenues of \$703.6 million (revenues generated on account of service provided to subscribers by

cellular systems other than their primary or "home" system) exceeded by nearly fifty percent the total industry revenues just six years earlier. With the ready availability of relatively inexpensive mobile and hand-held cellular phones, cellular phones are used by many residential, as well as business, subscribers to make long-distance calls on at least an occasional basis.

All cellular system licensees offer their subscribers the capability to make interexchange calls. However, only the BOCs, by reason of the action of the MFJ Court, are subject to equal access obligations. In BOC cellular markets, cellular subscribers' interexchange calls are handled by the IXC selected by the subscriber, and MCI and other IXCs obtain access to cellular customers through BOC facilities, via either switched or special access at BOC tandems. Although non-BOC cellular licensees sometimes provide "regional" service in contiguous geographic pockets, they for the most part they resell interexchange service to their subscribers at full market rates. To MCI's knowledge, no non-BOC cellular licensee offers its subscribers the option of presubscribing to a preferred interexchange carrier. The Commission, which in other proceedings has taken great care to adopt "rules conducive to full and fair interexchange competition" (see, e.g., Transport Rate Structure and Pricing, CC Docket No. 91-213, Order and Further Notice of Proposed Rulemaking, 6 FCC Rcd 5341, 5343 (1991)), has, to date, failed to implement cellular equal access policies and procedures.

Cellular has clearly moved beyond the Commission's original vision of a expensive, predominantly local mobile telephone service -- a competitive alternative to conventional mobile telephone service (Cellular Communications Systems, 86 F.C.C. 2d 469, at 485 (1981)) -- but it has not yet become a substitute for wireline local exchange service. (Id. at 484) The "inexpensive handheld portable unit that is light in weight" (Id.) which the Commission described as "the key to local exchange substitutability" (Id.) but dismissed as "likely unavailab[le] in the near term" (Id.) is now widely available for substantially less than \$1000.^{1/} Similarly, "the inherent spectrum limitations on cellular systems" (Id., at 484, para. 32), the other factor which the Commission foresaw as preventing cellular service from ever becoming a substitute for wireline local exchange service, has been overcome to some degree by the release of additional spectrum to cellular licensees, and by advances in microcellular architecture, compatible narrowband modulation, and other spectrum-conservation measures.

Discussion

MCI submits that the application of equal access requirements to cellular service is in the public interest. A residential or business customer ordering conventional wireline telephone service is given the opportunity to presubscribe to a

^{1/} The Commission stated that it was "not convinced" that a cellular portable unit could be developed and produced for under \$1000. (Id. at 484, n. 31)

preferred interexchange carrier. The same is true, by reason of the MFJ equal access requirement, when that customer orders cellular service from a BOC. But customers of non-BOC cellular systems are forced to accept service from the interexchange carrier chosen by their mobile service provider and, in most cases, are charged premium "full market rates" for the resold long distance service. They are not given freedom of choice.

If the Commission were to implement a uniform, nationwide, cellular equal access policy, all cellular customers -- not just BOC cellular customers -- would have an equal opportunity to purchase cellular service and long-distance service separately, on an unbundled basis.^{2/} A customer could then choose the combination of carriers which offer the best price/performance combination. For example, a new cellular subscriber might choose a cellular system that provides service to a particular area of interest (such as a commuting route), and presubscribe to a particular IXC in order to reduce long-distance charges by aggregating all of its services with that carrier.

The application of uniform, nationwide, equal access policies and procedures to cellular service is particularly important, given recent trends in regulation at the state level. Because of the Commission's long-standing policy of deferring economic regulation of mobile services to the state commissions,

^{2/} MCI submits that the same public interest considerations favoring the application of a uniform, nationwide, interexchange equal access policy to cellular subscribers using their "home" systems apply equally to those same subscribers when they are "roamers" on other systems.

the MFJ Court required the BOCs to file access tariffs at the state level. Over the past several years, the majority of states have greatly reduced or even eliminated rate regulation of cellular and other mobile services, and a large and growing number of states (now approximately twenty in number) will not accept cellular access tariffs. One result of deregulation and detariffing of BOC cellular services at the state level is that the cellular equal access conversion process is beginning to deteriorate into a crazy quilt of inconsistent policies and procedures, not just from one BOC to another, but from system to system within the same BOC.

Conclusion

WHEREFORE, MCI respectfully requests that the Commission initiate a rulemaking proceeding for the purpose of applying uniform, nationwide, interexchange equal access policies and procedures to cellular licensees.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By:



Larry A. Blosser

Donald J. Elardo

1801 Pennsylvania Avenue, N.W.

Washington, D.C. 20006

(202) 887-2727

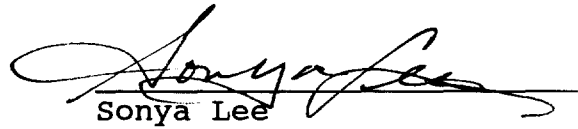
Its Attorneys

Dated: June 2, 1992

CERTIFICATE OF SERVICE

I, Sonya Lee, do hereby certify that on this 2nd day of June 1992, a copy of the foregoing "**Petition For Rulemaking**" was hand delivered to:

John Cimko, Jr.
Chief, Mobile Services Division
Federal Communications Commission
1919 M Street N.W., Rm. 644
Washington, D.C. 20554


Sonya Lee